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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-888

Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce

SUMMARY: In response to a request from Home Products International (the Petitioner in this proceeding), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on floor-standing, metal-top ironing tables and certain parts thereof (ironing tables) from the People's Republic of China (PRC). The period of review (POR) is August 1, 2010, through July 31, 2011. The review covers one respondent Foshan Shunde Yongjian Housewares & Hardware Co., Ltd. (Foshan Shunde). As discussed below, we have preliminarily determined that Foshan Shunde is part of the PRC-wide entity and that the entity has failed to cooperate to the best of its ability. We are, therefore, applying adverse facts available (AFA) to the PRC-wide entity, which includes Foshan Shunde. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of the the subject merchandise during the POR.

DATES: Effective (Insert date of publication in the *Federal Register*.)

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SUPPLEMENTARY INFORMATION:

Background

On August 6, 2004, the Department published in the *Federal Register* the antidumping duty order regarding ironing tables from the PRC.¹

On August 1, 2011, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on, *inter alia*, ironing tables from the PRC.²

On August 31, 2011, Home Products International and Foshan Shunde requested, in accordance with 19 CFR 351.213(b)(1), an administrative review of this order for Foshan Shunde.

On October 3, 2011, the Department initiated an administrative review of Foshan Shunde.³

The Department issued its antidumping questionnaire to Foshan Shunde on October 6, 2011. On October 27, 2011, counsel for Foshan Shunde withdrew Foshan Shunde's request for review. Additionally, the law firm that had represented Foshan Shunde indicated it "has not been authorized to enter an appearance or to otherwise participate in this review" on Foshan Shunde's behalf.⁴ Because, the review request filed by Home Products International was not withdrawn, the Department continued the administrative review of Foshan Shunde. On November 4, 2011, the Department sent Foshan Shunde a letter, which was received, requesting confirmation that Foshan Shunde received our antidumping questionnaire through its counsel at the time. However, Foshan Shunde filed no response to either our October 6, 2011,

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China*, 69 FR 47868 (August 6, 2004) (*Amended Final and Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 76 FR 45773 (August 1, 2011).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 76 FR 61076 (October 3, 2011).

⁴ See October 27, 2011, letter from the law firm of deKieffer & Horgan to the Department.

questionnaire or our November 4, 2011, letter.

Scope of the Order

For purposes of this order, the product covered consists of floor-standing, metal-top ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. The subject tables are designed and used principally for the hand ironing or pressing of garments or other articles of fabric. The subject tables have full-height leg assemblies that support the ironing surface at an appropriate (often adjustable) height above the floor. The subject tables are produced in a variety of leg finishes, such as painted, plated, or matte, and they are available with various features, including iron rests, linen racks, and others. The subject ironing tables may be sold with or without a pad and/or cover. All types and configurations of floor-standing, metal-top ironing tables are covered by this review.

Furthermore, this order specifically covers imports of ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. For purposes of this order, the term “unassembled” ironing table means a product requiring the attachment of the leg assembly to the top or the attachment of an included feature such as an iron rest or linen rack. The term “complete” ironing table means product sold as a ready-to-use ensemble consisting of the metal-top table and a pad and cover, with or without additional features, *e.g.*, iron rest or linen rack. The term “incomplete” ironing table means product shipped or sold as a “bare board” – *i.e.*, a metal-top table only, without the pad and cover– with or without additional features, *e.g.*, iron rest or linen rack. The major parts or components of ironing tables that are intended to be covered by this order under the term “certain parts thereof” consist of the metal top component (with or without assembled supports and slides) and/or the leg components, whether or not attached together as a leg assembly. The order covers separately shipped metal top components

and leg components, without regard to whether the respective quantities would yield an exact quantity of assembled ironing tables.

Ironing tables without legs (such as models that mount on walls or over doors) are not floor-standing and are specifically excluded. Additionally, tabletop or countertop models with short legs that do not exceed 12 inches in length (and which may or may not collapse or retract) are specifically excluded.

The subject ironing tables are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.20.0011. The subject metal top and leg components are classified under HTSUS subheading 9403.90.8041. Although the HTSUS subheadings are provided for convenience and for Customs and Border Protection (CBP) purposes, the Department's written description of the scope remains dispositive.

Facts Otherwise Available

Section 776(a) of the Tariff Act of 1930, as amended (the Act), mandates that the Department use facts otherwise available if necessary information is not otherwise available on the record of the antidumping proceeding. Specifically, section 776(a)(2) of the Act provides that where an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide requested information by the requested date or in the form and manner requested; (C) significantly impedes an antidumping proceeding; or (D) provides such information but the information cannot be verified, the Department shall use facts otherwise available in reaching its determination.

Foshan Shunde did not respond to the antidumping questionnaire issued by the Department on October 6, 2011, and thus Foshan Shunde did not establish its eligibility in this segment of the proceeding for a separate rate. As a result, we preliminarily find Foshun Shunde

to be part of the PRC-wide entity. Because the entity, which includes Foshun Shunde, provided the Department with no data from which it could calculate a margin, the record lacks the requisite data that is needed to reach a determination. Accordingly, the Department finds that necessary information to calculate an accurate and reliable margin is not available on the record of this proceeding. The Department finds that because Foshan Shunde, as part of the PRC-wide entity, failed to submit any response to the Department's questionnaire, the PRC-wide entity withheld the requested information, failed to provide the information in a timely manner and in the form requested, and significantly impeded this proceeding, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act. On this basis, the Department finds that it must rely on the facts otherwise available to determine a margin for the PRC-wide entity in accordance with section 776(a) of the Act.⁵

Adverse Facts Available

Section 776(b) of the Act states that if the Department “finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority . . . {the Department} . . . may use an inference that is adverse to the interests of the party in selecting from among the facts otherwise available.”⁶ Adverse inferences are appropriate to “ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁷ In selecting an adverse inference, the Department may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.⁸

⁵ See *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 69546 (December 1, 2006) (*Cast Iron Fittings*), and accompanying Issues and Decision Memorandum at Comment 1.

⁶ See also *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. No., 103-316 at 870 (1994) (SAA).

⁷ *Id.*

⁸ See section 776(b) of the Act.

The Department determines that the PRC-wide entity, which includes Foshan Shunde's failure to respond to the Department's questionnaire, has failed to cooperate to the best of its ability in providing the requested information. Accordingly, pursuant to sections 776(a)(2)(A), (B), and (C) and section 776(b) of the Act, we find it appropriate to apply a margin to the PRC-wide entity based entirely on the facts available, and to apply an adverse inference.⁹ By doing so, we ensure that the PRC-wide entity, which includes Foshan Shunde, will not obtain a more favorable result by failing to cooperate than had it cooperated fully in this review.

The Department's practice is to select an AFA rate that is sufficiently adverse as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner and that ensures that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.¹⁰ Specifically, the Department's practice in reviews, when selecting a rate as total AFA, is to use the highest rate on the record of the proceeding which, to the extent practicable, can be corroborated.¹¹ The Court of International Trade (CIT) and the CAFC have affirmed decisions to select the highest margin from any prior segment of the proceeding as the AFA rate on numerous occasions.¹² Therefore, we are assigning the PRC-wide entity, which includes Foshan

⁹ See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results of the First Administrative Review*, 72 FR 10689, 10692 (March 9, 2007) (decision to apply total AFA to the NME-wide entity), unchanged in *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Administrative Review and First New Shipper Review*, 72 FR 52052 (September 12, 2007), and accompanying Issues and Decision Memorandum.

¹⁰ See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8911 (February 23, 1998); see also *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005), and SAA at 870.

¹¹ See *Glycine from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 15930, 15934 (April 8, 2009), unchanged in *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 41121 (August 14, 2009); see also *Fujian Lianfu Forestry Co., Ltd. v. United States*, 638 F. Supp. 2d 1325, 1336 (CIT August 10, 2009) ("Commerce may, of course, begin its total AFA selection process by defaulting to the highest rate in any segment of the proceeding, but that selection must then be corroborated, to the extent practicable.").

¹² See, e.g., *KYD, Inc. v. United States*, 607 F.3d 760, 766-767 (CAFC 2010) (*KYD*); see also *NSK Ltd. v. United*

Shunde, a rate of 157.68 percent, which is the highest rate on the record of this proceeding and which was the rate assigned to the PRC-wide entity in a previously published antidumping determination.¹³

Corroboration

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. To be considered corroborated, the Department must find the information has probative value, meaning that the information must be both reliable and relevant.¹⁴ Secondary information is “{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 {of the Act} concerning the subject merchandise.”¹⁵ Unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated margins. Thus, in an administrative review, if the Department chooses, as AFA, a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin.

The Department considers the AFA rate calculated for the current review as both reliable and relevant. On the issue of reliability, the adverse rate selected was calculated for another respondent, Shunde Yongjian, during the LTFV investigation.¹⁶ No information has been presented in the current review that calls into question the reliability of this information. With

States, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (affirming a 73.55 percent total AFA rate, the highest available dumping margin calculated for a different respondent in the investigation).

¹³ See *Amended Final and Order* 69 FR at 47868.

¹⁴ See SAA at 870; *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter and Components Thereof, From Japan*; *Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter and Components Thereof, From Japan*; *Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

¹⁵ See SAA, H.R. Doc. No. 103-316 at 870 (1994) and 19 C.F.R. 351.308 (d)

¹⁶ See *Amended Final and Order* 69 FR at 47868.

respect to the relevance, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example in *Fresh Cut Flowers from Mexico*, the Department disregarded the highest margin in that case as best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).¹⁷ The selected AFA margin is based upon the calculated rate for another respondent in the LTFV investigation, and thus reflects the commercial reality of a competitor in the same industry.¹⁸ Given that the PRC-wide entity, which includes Foshan Shunde, failed to cooperate to the best of its ability in this administrative review, it is appropriate to select an AFA rate that serves as an adequate deterrent in order to induce cooperation in the proceeding. As the Federal Circuit found in *KYD*, we find that in choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin reflects "a common sense inference that the highest prior margin is the most probative evidence of current margins in this instance, because, if it were not so," Foshan Shunde, "knowing of the rule, would have produced current information showing the margin to be less."¹⁹ We find this to be particularly true in this case because, Foshan Shunde, as part of the PRC entity, was assigned the same calculated AFA rate in a prior review due to its failure to cooperate.²⁰ On this basis, we find that selecting the highest

¹⁷ See *Fresh Cut Flowers from Mexico; Final Results of Antidumping Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (*Fresh Cut Flowers*) cited in *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 77 FR 21734, 21737 (April 11, 2012).

¹⁸ See *Amended Final and Order* 69 FR at 47868

¹⁹ See *KYD*, 607 F.3d at 766, citing *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (CAFC 1990).

²⁰ See *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China*:

calculated rate of this proceeding is sufficiently relevant to the commercial reality for the PRC entity, which includes Foshan Shunde. Furthermore, there is no information on the record of this review that demonstrates that this rate is uncharacteristic of the industry, or otherwise inappropriate for use as AFA. Based upon the foregoing, we determine this rate to be relevant.

As the 157.68 percent AFA rate is both reliable and relevant, we determine that it has probative value and is corroborated to the extent practicable, in accordance with section 776(c) of the Act. Therefore, we have assigned this rate as AFA, to exports of the subject merchandise by the PRC-wide entity, including Foshan Shunde.

Preliminary Results of Review

We preliminarily determine that the following antidumping duty margin exists:

Exporter	Margin (percent)
PRC wide entity (includes Foshan Shunde Yongjian Housewares & Hardware Co., Ltd.)	157.68

Assessment Rates

Upon issuance of the final results, the Department will determine and CBP will assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review. Where assessments are based upon total facts available, including total AFA, we instruct CBP to assess duties at the *ad valorem* margin rate published above. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis*. The final results of this review shall be the basis for the assessment of antidumping duties on entries of

Final Results of Antidumping Duty Administrative Review, 75 FR 3201, 3202 (January 20, 2010).

merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporter listed above, the cash deposit rate will be established in the final results of this review (except, if the rate is zero or *de minimis*, i.e., less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 157.68 percent (*see Amended Final and Order*); and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

The Department will disclose calculations performed in connection with the preliminary results of this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing will be held 37 days after the publication of this notice, or the first workday thereafter unless the Department alters the date

pursuant to 19 CFR 351.310(d). Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the *Federal Register* to the Assistant Secretary for Import Administration, U.S. Department of Commerce, pursuant to the Department's e-filing regulations. *See*

<https://iaaccess.trade.gov/help/IA%20ACCESS%20User%20Guide.pdf>.

Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(1)(ii). As part of the case brief, parties are encouraged to provide a summary of the arguments and a table of authorities cited in accordance with 19 CFR 351.309(c)(2). Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed in accordance with 19 CFR 351.309(d). If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief in accordance with 19 CFR 351.310(c). Parties should confirm by telephone the time, date, and place of the hearing within 48 hours before the scheduled time. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility

under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of administrative review are issued and this notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

_May 2, 2012_____

Date

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